

**AGREEMENT FOR SERVICES  
BETWEEN THE  
CITY OF SANTA CLARA, CALIFORNIA,  
AND  
COLONY LANDSCAPE & MAINTENANCE, INC.**

**PREAMBLE**

This Agreement, effective as of \_\_\_\_\_ (“Effective Date”) is entered into between the City of Santa Clara, California, a chartered California municipal corporation (“City”) and Colony Landscape & Maintenance, Inc., a California corporation (“Contractor”). City and Contractor may be referred to individually as a “Party” or collectively as the “Parties” or the “Parties to this Agreement.”

**RECITALS**

- A. WHEREAS, pursuant to that certain “License Agreement For Use of Youth Soccer Park”, dated January 6, 2026 (the “License Agreement”), the City granted NFL Enterprises, LLC (“NFL”) an exclusive license to use designated areas of the Santa Clara Youth Soccer Park, located at 5020 Stars and Stripes Drive, Santa Clara, California 95054 (“YSP”) in connection with Super Bowl LX events; and
- B. WHEREAS, in consideration for NFL’s use of YSP, NFL agreed to have certain field improvement work, as more particularly described in Exhibit B to the License Agreement, (“Field Improvement Work”), performed at YSP and retained Contractor to complete the Field Improvement Work;
- C. WHEREAS, the Field Improvement Work includes the replacement of the natural turf for Field 1 and Field 3 at YSP, and does not include dethatching prior to installation;
- D. WHEREAS, the process of dethatching is beneficial to a field prior to replacing natural turf to allow water, air and nutrients to reach the soil promoting healthier root growth; and
- E. WHEREAS, the City desires to retain Contractor under this Agreement to perform thatch removal services on Field 1 and Field 3 at YSP, as more fully described in this Agreement, at Exhibit A, entitled “Scope of Services” (“Services”) in order to support continuity of operations and the overall quality of the Field Improvement Work; AND
- F. WHEREAS, Contractor represents that it, and its subcontractors, if any, have the professional qualifications, expertise, necessary licenses and desire to provide certain goods and/or required services of the quality and type which meet objectives and requirements of City; and,

G. WHEREAS, the Parties have specified herein the terms and conditions under which such Services shall be provided and paid for.

NOW, THEREFORE, in consideration of the above Recitals and the mutual covenants contained therein, the Parties agree as follows:

## **AGREEMENT TERMS AND CONDITIONS**

### **1. AGREEMENT DOCUMENTS**

The documents forming the entire Agreement between City and Contractor shall consist of these Terms and Conditions and the following Exhibits, which are hereby incorporated into this Agreement by this reference:

Exhibit A – Scope of Services

Exhibit A-1 – Field Images

Exhibit B – Schedule of Fees

Exhibit C – Insurance Requirements

Exhibit D – Labor Compliance Addendum

This Agreement, including the Exhibits set forth above, contains all the agreements, representations and understandings of the Parties, and supersedes and replaces any previous agreements, representations and understandings, whether oral or written. In the event of any inconsistency between the provisions of any of the Exhibits and the Terms and Conditions, the Terms and Conditions shall govern and control.

### **2. TERM OF AGREEMENT**

Unless otherwise set forth in this Agreement or unless this paragraph is subsequently modified by a written amendment to this Agreement, the term of this Agreement shall begin as of the Effective Date and terminate on December 31, 2026.

### **3. SCOPE OF SERVICES & PERFORMANCE SCHEDULE**

Contractor shall perform those Services specified in Exhibit A within the time stated in Exhibit A. Time is of the essence in the performance of Services. Contractor shall be entitled to reasonable extensions of time for delays caused by the City, unusually severe weather. As a condition of any such extension, Contractor shall provide written notice within five (5) calendar days of the onset of the delay, including a description of the cause of the delay and the anticipated impact on the schedule, including an updated timeline for completion.

Any request for a time extension shall be subject to review and approval by the City, in its reasonable discretion. Contractor shall not be entitled to additional compensation as a result of such delays.

#### 4. **WARRANTY**

Contractor expressly warrants that the Services shall be performed in accordance with generally accepted industry standards applicable in the State of California. All materials and services covered by this Agreement shall be fit for the purpose intended, shall be free from defect and shall conform to the specifications, requirements and instructions upon which this Agreement is based. If Contractor becomes aware of any existing deficiencies or conditions that may adversely affect the performance of Services, Contractor shall promptly notify the City in writing prior to proceeding with the Services. Contractor further warrants that its Services will not damage existing utilities, site soils, or other existing site conditions.

Contractor agrees to promptly replace or correct any incomplete, inaccurate or defective Services at no further cost to City when defects are due to the negligence, errors or omissions of Contractor. If Contractor fails to promptly correct or replace materials or services, City may make corrections or replace materials or services and charge Contractor for the cost incurred by City.

#### 5. **QUALIFICATIONS OF CONTRACTOR - STANDARD OF CARE**

Contractor represents and maintains that it has the expertise in the professional calling necessary to perform the Services, and its duties and obligations, expressed and implied, contained herein, and City expressly relies upon Contractor's representations regarding its skills and knowledge. Contractor shall perform such Services and duties in conformance to and consistent with the professional standards of a specialist in the same discipline in the State of California.

#### 6. **COMPENSATION AND PAYMENT**

In consideration for Contractor's complete performance of Services, City shall pay Contractor for all materials provided and Services rendered by Contractor in accordance with Exhibit B, entitled "SCHEDULE OF FEES." The maximum compensation of this Agreement is **five hundred sixty-four thousand, one hundred eighty-four dollars (\$564,184)**, subject to budget appropriations, which includes all payments that may be authorized for Services and for expenses, supplies, materials and equipment required to perform the Services. All work performed or materials provided in excess of the maximum compensation shall be at Contractor's expense. Contractor shall not be entitled to any payment above the maximum compensation under any circumstance.

## **7. TERMINATION**

- A. Termination for Convenience. City shall have the right to terminate this Agreement, without cause or penalty, by giving not less than Thirty (30) days' prior written notice to Contractor.
- B. Termination for Default. If Contractor fails to perform any of its material obligations under this Agreement, in addition to all other remedies provided by law, City may terminate this Agreement immediately upon written notice to Contractor.
- C. Upon termination, each Party shall assist the other in arranging an orderly transfer and close-out of services. As soon as possible following the notice of termination, but no later than ten (10) days after the notice of termination, Contractor shall deliver to City all City information or material that Contractor has in its possession.

## **8. ASSIGNMENT AND SUBCONTRACTING**

City and Contractor bind themselves, their successors and assigns to all covenants of this Agreement. This Agreement shall not be assigned or transferred without the prior written approval of City. Contractor shall not hire subcontractors without express written permission from City.

Contractor shall be as fully responsible to City for the acts and omissions of its subcontractors, and of persons either directly or indirectly employed by them, as Contractor is for the acts and omissions of persons directly employed by it.

## **9. NO THIRD PARTY BENEFICIARY**

This Agreement shall not be construed to be an agreement for the benefit of any third party or parties and no third party or parties shall have any claim or right of action under this Agreement for any cause whatsoever.

## **10. INDEPENDENT CONTRACTOR**

Contractor and all person(s) employed by or contracted with Contractor to furnish labor and/or materials under this Agreement are independent contractors and do not act as agent(s) or employee(s) of City. Contractor has full rights to manage its employees in their performance of Services under this Agreement.

## **11. CONFIDENTIALITY OF MATERIAL**

All ideas, memoranda, specifications, plans, manufacturing procedures, data, drawings, descriptions, documents, discussions or other information developed or received by or for Contractor and all other written information submitted to Contractor in connection with the performance of this Agreement shall be held confidential by Contractor and shall not, without the prior written consent of City,

be used for any purposes other than the performance of the Services nor be disclosed to an entity not connected with performance of the Services. Nothing furnished to Contractor which is otherwise known to Contractor or becomes generally known to the related industry shall be deemed confidential.

## **12. OWNERSHIP OF MATERIAL**

All material, which shall include, but not be limited to, data, sketches, tracings, drawings, plans, diagrams, quantities, estimates, specifications, proposals, tests, maps, calculations, photographs, reports, designs, technology, programming, works of authorship and other material developed, collected, prepared or caused to be prepared under this Agreement shall be the property of City but Contractor may retain and use copies thereof. City shall not be limited in any way or at any time in its use of said material. However, Contractor shall not be responsible for damages resulting from the use of said material for work other than Project, including, but not limited to, the release of this material to third parties.

## **13. RIGHT OF CITY TO INSPECT RECORDS OF CONTRACTOR**

City, through its authorized employees, representatives or agents shall have the right during the term of this Agreement and for four (4) years from the date of final payment for goods or services provided under this Agreement, to audit the books and records of Contractor for the purpose of verifying any and all charges made by Contractor in connection with Contractor compensation under this Agreement, including termination of Contractor. Contractor agrees to maintain sufficient books and records in accordance with generally accepted accounting principles to establish the correctness of all charges submitted to City. Any expenses not so recorded shall be disallowed by City. Contractor shall bear the cost of the audit if the audit determines that there has been a substantial billing deviation in excess of five (5) percent adverse to the City.

Contractor shall submit to City any and all reports concerning its performance under this Agreement that may be requested by City in writing. Contractor agrees to assist City in meeting City's reporting requirements to the State and other agencies with respect to Contractor's Services hereunder.

## **14. HOLD HARMLESS/INDEMNIFICATION**

- A. To the extent permitted by law, Contractor agrees to protect, defend, hold harmless and indemnify City, its City Council, commissions, officers, employees, volunteers and agents from and against any claim, injury, liability, loss, cost, and/or expense or damage, including all costs and attorney's fees in providing a defense to any such claim or other action, and whether sounding in law, contract, tort, or equity, in any manner arising from, or alleged to arise in whole or in part from, or in any way connected with the Services performed by Contractor pursuant to this Agreement – including claims of any kind by Contractor's employees or

persons contracting with Contractor to perform any portion of the Scope of Services – and shall expressly include passive or active negligence by City connected with the Services. However, the obligation to indemnify shall not apply if such liability is ultimately adjudicated to have arisen through the sole active negligence or sole willful misconduct of City; the obligation to defend is not similarly limited.

- B. Contractor's obligation to protect, defend, indemnify, and hold harmless in full City and City's employees, shall specifically extend to any and all employment-related claims of any type brought by employees, contractors, subcontractors or other agents of Contractor, against City (either alone, or jointly with Contractor), regardless of venue/jurisdiction in which the claim is brought and the manner of relief sought.
- C. To the extent Contractor is obligated to provide health insurance coverage to its employees pursuant to the Affordable Care Act ("Act") and/or any other similar federal or state law, Contractor warrants that it is meeting its obligations under the Act and shall fully indemnify and hold harmless City for any penalties, fines, adverse rulings, or tax payments associated with Contractor's responsibilities under the Act.
- D. The Parties expressly agree that this Section 14 (HOLD HARMLESS/INDEMNIFICATION) shall survive the expiration or early termination of the Agreement.

## **15. LIMITATION OF LIABILITY**

Contractor liability is capped at total contract value, except that this Section 15 (LIMITATION OF LIABILITY) does not exclude or limit liability for Contractor's indemnification obligations under Section 14 (HOLD HARMLESS/INDEMNIFICATION) with respect to any claim, injury, liability, loss, cost and/or expense or damage, including all costs and attorney's fees in providing a defense for (i) any events which losses for which insurance coverage is available; (ii) death or bodily injury; (iii) damage to tangible property, including, but not limited to, environmental remediation; (iv) harm to City property; (v) Contractor's or subcontractors' gross negligence or willful misconduct; or (vi) third party claims from the Contractor's or subcontractors' employees.

## **16. INSURANCE REQUIREMENTS**

During the term of this Agreement, and for any time period set forth in Exhibit C, Contractor shall provide and maintain in full force and effect, at no cost to City, insurance policies as set forth in Exhibit C.

**17. WAIVER**

Contractor agrees that waiver by City of any one or more of the conditions of performance under this Agreement shall not be construed as waiver(s) of any other condition of performance under this Agreement. Neither City's review, acceptance nor payments for any of the Services required under this Agreement shall be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.

**18. NOTICES**

All notices to the Parties shall, unless otherwise requested in writing, be sent to City addressed as follows:

City of Santa Clara  
Attention: Parks and Recreation Department  
1500 Warburton Avenue  
Santa Clara, CA 95050  
and by e-mail at DSparacino@santaclaraca.gov

And to Contractor addressed as follows:

Colony Landscape & Maintenance, Inc.  
4911 Spreckles Avenue  
Alviso, CA 95002  
and by e-mail at Sam@colonylandscape.com

The workday the e-mail was sent shall control the date notice was deemed given. An e-mail transmitted after 1:00 p.m. on a Friday shall be deemed to have been transmitted on the following business day.

**19. COMPLIANCE WITH LAWS**

Contractor shall comply with all applicable laws and regulations of the federal, state and local government, including but not limited to "The Code of the City of Santa Clara, California" ("SCCC"). In particular, Contractor's attention is called to the regulations regarding Campaign Contributions (SCCC Chapter 2.130), Lobbying (SCCC Chapter 2.155), Minimum Wage (SCCC Chapter 3.20), Business Tax Certificate (SCCC section 3.40.070), and Food and Beverage Service Worker Retention (SCCC Chapter 9.60), as such Chapters or Sections may be amended from time to time or renumbered. Additionally, Contractor has read and agrees to comply with City's Ethical Standards (<http://santaclaraca.gov/home/showdocument?id=58299>).

**20. CONFLICTS OF INTEREST**

Contractor certifies that to the best of its knowledge, no City officer, employee or authorized representative has any financial interest in the business of Contractor

and that no person associated with Contractor has any interest, direct or indirect, which could conflict with the faithful performance of this Agreement. Contractor is familiar with the provisions of California Government Code section 87100 and following and certifies that it does not know of any facts which would violate these code provisions. Contractor shall advise City if a conflict arises.

**21. FAIR EMPLOYMENT**

Contractor shall not discriminate against any employee or applicant for employment because of race, sex, color, religion, religious creed, national origin, ancestry, age, gender, marital status, physical disability, mental disability, medical condition, genetic information, sexual orientation, gender expression, gender identity, military and veteran status, or ethnic background, in violation of federal, state or local law.

**22. NO USE OF CITY NAME OR EMBLEM**

Contractor shall not use City's name, insignia, or emblem, or distribute any information related to services under this Agreement in any magazine, trade paper, newspaper or other medium without express written consent of City.

**23. GOVERNING LAW AND VENUE**

This Agreement shall be governed and construed in accordance with the statutes and laws of the State of California. The venue of any suit filed by either Party shall be vested in the state courts of the County of Santa Clara, or if appropriate, in the United States District Court, Northern District of California, San Jose, California.

**24. SEVERABILITY CLAUSE**

In case any one or more of the provisions in this Agreement shall, for any reason, be held invalid, illegal or unenforceable in any respect, it shall not affect the validity of the other provisions, which shall remain in full force and effect.

**25. AMENDMENTS**

This Agreement may only be modified by a written amendment duly authorized and executed by the Parties to this Agreement.

**26. COUNTERPARTS**

This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but both of which shall constitute one and the same instrument.

The Parties acknowledge and accept the terms and conditions of this Agreement as evidenced by the following signatures of their duly authorized representatives.

**CITY OF SANTA CLARA, CALIFORNIA**  
a chartered California municipal corporation

Approved as to Form: \_\_\_\_\_

Dated: \_\_\_\_\_


\_\_\_\_\_  
GLEN R. GOOGINS  
City Attorney

\_\_\_\_\_  
JOVAN D. GROGAN  
City Manager  
City of Santa Clara  
1500 Warburton Avenue  
Santa Clara, CA 95050  
Telephone: (408) 615-2210  
Fax: (408) 241-6771

"CITY"

**COLONY LANDSCAPE & MAINTENANCE, INC**  
a California corporation

Dated: 5/7/2026

By (Signature):  \_\_\_\_\_

Name: Edward Ott

Title: President

Principal Place of Business Address: 4911 Spreckles Avenue  
Alviso, CA 95002

Email Address: Ed@colonylandscape.com

Telephone: 408 687-7700

Fax: \_\_\_\_\_

"CONTRACTOR"

## **EXHIBIT A SCOPE OF SERVICES**

Prior to performing the Field Improvement Work which Contractor is performing on Field 1 and Field 3 under its agreement between Contractor and NFL, Contractor shall provide professional thatch removal services ("Services") for the specified fields at the Santa Clara Youth Soccer Park for the City.

### **1. OBJECTIVE**

The objective of the Services is to improve the quality, performance, and longevity of the replacement turf system. The Services are intended to improve surface and subsurface drainage, reduce soil compaction, restore proper grading, and promote health root growth and turf regeneration through the removal of accumulated organic matter ("thatch") located between the grass layer and the fibrous sand root zone. Performance the Services shall result in a field that drains substantially faster, is graded more precisely, and is easier to maintain while providing long-term quality.

### **2. FIELDS & ACCESS**

Contractor shall provide Services at the Santa Clara Youth Soccer Park, located at 5020 Stars and Stripes Drive, Santa Clara, CA 95054. The specific fields for which Contractor shall provide Services are listed below:

- 2.1.** West Field, including area outside of concrete pad, hereinafter referred to as "Field 1".
- 2.2.** East Field, hereinafter referred to as "Field 3".
- 2.3.** Images identifying each field and the areas for which Services shall be provided are included in Exhibit A-1, entitled "Field Images".
- 2.4.** The City shall provide the Contractor access to Field 1 and Field 3 between the hours of 7:00 a.m. and 3:00 p.m. PST, Monday through Friday ("Work Hours"). Access to Field 1 shall be via Marie DeBartolo Way, and access to Field 3 shall be through the maintenance yard.
- 2.5.** The Contractor shall ensure that Field 1 and Field 3 are closed to public use for the duration of Services. Contractor shall ensure that Field 2 is closed to public use only during the Work Hours stated above. Contractor shall also protect Field 2 from any damage that may arise during the performance of Services and shall install temporary fencing to shield Field 2 from debris and dust.
- 2.6.** The Contractor shall cease work by 3:00 p.m. PST each day and shall store all equipment and supplies in a manner that does not interfere with access to, or use of Field 2 at YSP, which is not subject to Services under this Agreement.

- 2.7. Contractor shall begin Services upon City's issuance to Contractor of a notice to proceed with Services ("Notice to Proceed"). Contractor will ensure Services are completed within 16-20 business days of issuance of the Notice to Proceed.

### **3. PROJECT COORDINATION**

- 3.1. Services shall be provided in coordination with the Field Improvement Work authorized in the agreement between NFL and Contractor.
- 3.2. Contractor shall sequence its Services under this Agreement and ensure that these Services do not interfere with the timeline required by NFL for completion of the Field Improvement Work in accordance with NFL's project schedule.
- 3.3. Services shall be performed on the dates and times mutually agreed upon between Contractor and the City's Parks and Recreation Department ("P&R") and authorized in writing by P&R.
- 3.4. Contractor shall coordinate staging areas, equipment access routes, and material removal operations with P&R and other contractors working on the project to minimize disruption to YSP operations.
- 3.5. Contractor shall receive written authorization from the Director of Parks and Recreation or designee prior to proceeding with any work. Any changes to the scope of services shall also require prior written authorization from the Director of Parks and Recreation or designee.

### **4. THATCH REMOVAL SERVICES**

Contractor shall perform thatch removal services including, but not limited to, the following:

- 4.1. Provide all labor, supervision, materials, equipment, and transportation necessary to complete the Services.
- 4.2. Mechanically remove accumulated organic matter, and thatch build-up to expose the underlying fibrous sand root zone.
- 4.3. Remove organic matter to a depth necessary to restore the fibrous sand root zone profile and achieve the target field depth of 6 inches.
- 4.4. Utilize specialized turf removal and surface preparation equipment appropriate for athletic field renovation, such as field planers, turf harvesters, or equivalent equipment designed to minimize disturbance to the underlying root zone.
- 4.5. Maintain field surface tolerances during removal operations to avoid creating depressions, high spots, or damage to the sand base.

- 4.6. Remove debris, vegetation, and excess organic material generated during removal operations on an ongoing basis to maintain a clean and safe worksite.
- 4.7. Properly load, transport, and dispose of all removed grass, thatch, and organic materials off-site and in accordance with all applicable federal, state, and local laws, regulations, and disposal requirements.
- 4.8. Take reasonable precautions to prevent contamination, erosion, or migration of materials to surrounding YSP areas, walkways, drainage systems, or stormwater infrastructure.
- 4.9. Perform final surface grooming to ensure the exposed sand root zone is uniform and properly prepared for subsequent Field Improvement Work.
- 4.10. Properly prepare all surfaces for new natural turf and irrigation system.
- 4.11. Provide all final photos and work sequencing to the City.
- 4.12. Coordinate with City staff for final punch list and approval site meeting

## **5. STORMWATER POLLUTION PREVENTION PLAN**

- 5.1. Contractor shall implement and maintain temporary erosion and sediment control (Water Pollution Control Plan) for the project as detailed in the most recent version of the Erosion Control and Sediment Control Field Manual for California, and the latest edition of the California Stormwater Quality Association (CASQA) BMP Handbook, Construction, for the entire duration of the project. A Water Pollution Control Plan shall be submitted by the Contractor to the Engineer for approval prior to proceeding with any work on this project.
- 5.2. Best Management Practice (BMP) products shall be as specified in the latest edition of the CASQA BMP Handbook, Construction.
- 5.3. Erosion and sediment control work shall consist of applying BMP's to control the discharge of storm water pollutants from the project site. BMP's shall be used to cover all temporary erosion and sediment control situations that arise during construction including unanticipated field conditions year-round. These erosion and sediment control measures shall control and contain erosion-caused silt deposits and provide for the safe discharge of silt-free storm water into existing and proposed storm facilities.
- 5.4. The Water Pollution Control Plan shall be designed to ensure the project site is protected for the entire duration of the project.
- 5.5. Contractor shall implement and maintain all Water Pollution Control Plan work for the project that shall include:

- 5.5.1. Construction of any and all necessary systems to eliminate contaminants from entering the storm system.
- 5.5.2. Clean up and control of the work site materials, spoils and debris.
- 5.5.3. Removal of contaminants produced by equipment used for the construction of the project.
- 5.5.4. Prohibition of illicit discharge (non-rain water) into the storm system.
- 5.5.5. Provision of all labor, materials, equipment and apparatus not specifically mentioned herein or noted on the plans, but which are incidental and necessary to complete the work specified.]
- 5.5.6. Contractor shall be responsible for ensuring that all sub-contractors, and suppliers are aware of all water pollution control measures and that they implement such measures. Failure to comply with the storm water quality regulations and specifications shall result in the issuance of verbal or written corrective notices, citations, fines, and/or a project stop order.
- 5.5.7. Contractor shall maintain erosion and sediment control measures daily. Contractor shall submit to the Engineer for approval, the name of the person responsible for the daily maintenance of these facilities, along with a phone number where they can be reached twenty-four (24) hours a day.
- 5.5.8. Temporary erosion and sediment control work shall consist of applying erosion control materials to embankment slopes, excavation slopes and other areas designated on the Water Pollution Control Plan, and installing sediment control such as, but not limited to, fiber roll, silt fence, inlet protection, gravel bags, headwall protection and stabilized construction entrances and exits, or other measures as specified in the Water Pollution Control Plan.
- 5.5.9. Erosion and sediment control measures shall be adjusted throughout the construction duration to accommodate the varying construction limits as each phase of work starts and completes. Refer to the Construction Phasing Diagram in the plans for limits of each work phase.
- 5.5.10. Emergency erosion and sediment control shall consist of any measures not addressed in the approved Water Pollution Control Plan for any of the project phases but the Engineer deems necessary to prevent degradation of water quality after start of construction.

## **6. TRAFFIC CONTROL**

The Contractor is responsible for coordinating all necessary traffic control procedures in conformance with the City's Standard Specifications for Public Works Construction,

Section 01500 (1.16), entitled "Traffic Control", which can be located at <https://santaclaraca.gov/our-city/departments-g-z/public-works/engineering/technical-documents>. Contractor is responsible for contracting the City of Santa Clara Police Department at (408) 615-4700 to request Tow Away service, if required. The City shall not furnish temporary "No Parking" signs.

## **7. SANITATION FACILITIES**

Contractor shall be responsible for providing bathrooms, wash stations, water and power, if needed, for the duration of Services. The City shall not provide access to sanitation facilities.

## **8. HYDRANT ACCESS**

Contractor shall eliminate or reduce the discharge of pollutants from Service-related activities and comply with the requirements of Santa Clara Valley Urban Runoff Pollution Prevention Program's Construction Site Control. Best Management Practice Plan Sheet along with other related documents can be found at <https://scvurppp.org/construction-site-control/>.

To manage dust relating to the movement of dirt or to clean tires, the Contractor may coordinate with the Water and Sewer Department at (408) 615-2000 to obtain a hydrant meter. Contractor shall be responsible for paying all applicable fees.

## **9. UTILITIES**

Contractor shall be responsible to verify the location of all existing utilities with the appropriate utility agencies prior to commencement of Services and perform Services in a manner that appropriately protects existing utilities. Contractor shall notify all public and private utility owners 48 hours prior to commencement of Services adjacent to the utility, and shall contract Underground Service Alert ("USA") at 811 or 800-227-2600.

## **10. PRE-EXISTING CONDITIONS VIDEO**

Prior to providing any Services, Contractor shall provide a high-quality Pre-Existing Conditions video ("Video") of the extent of the proposed work areas and shall provide a copy to the City for their records. No work shall begin until the City's acceptance of the Video. The purpose of the Video is to provide the City with a visual record of the pre-existing conditions of the work areas.

During Video recording, the recorder shall narrate video explaining what is being shown, the time of day, and the name of the project site being recorded. The video recorder shall take special efforts to point out and provide audio commentary pertaining to damage to existing features.

Video shall show the work areas during clear weather conditions with clear visibility, avoiding harsh shadows, during daylight hours. The Video shall be provided to the City's representative in the form of an unedited digital file, in color, at a minimum

resolution of 1920x1080, at a minimum frame rate of 24 fps, provided on a USB Thumb Drive and labeled with the job name and project number.

## **11. WORK SEQUENCE**

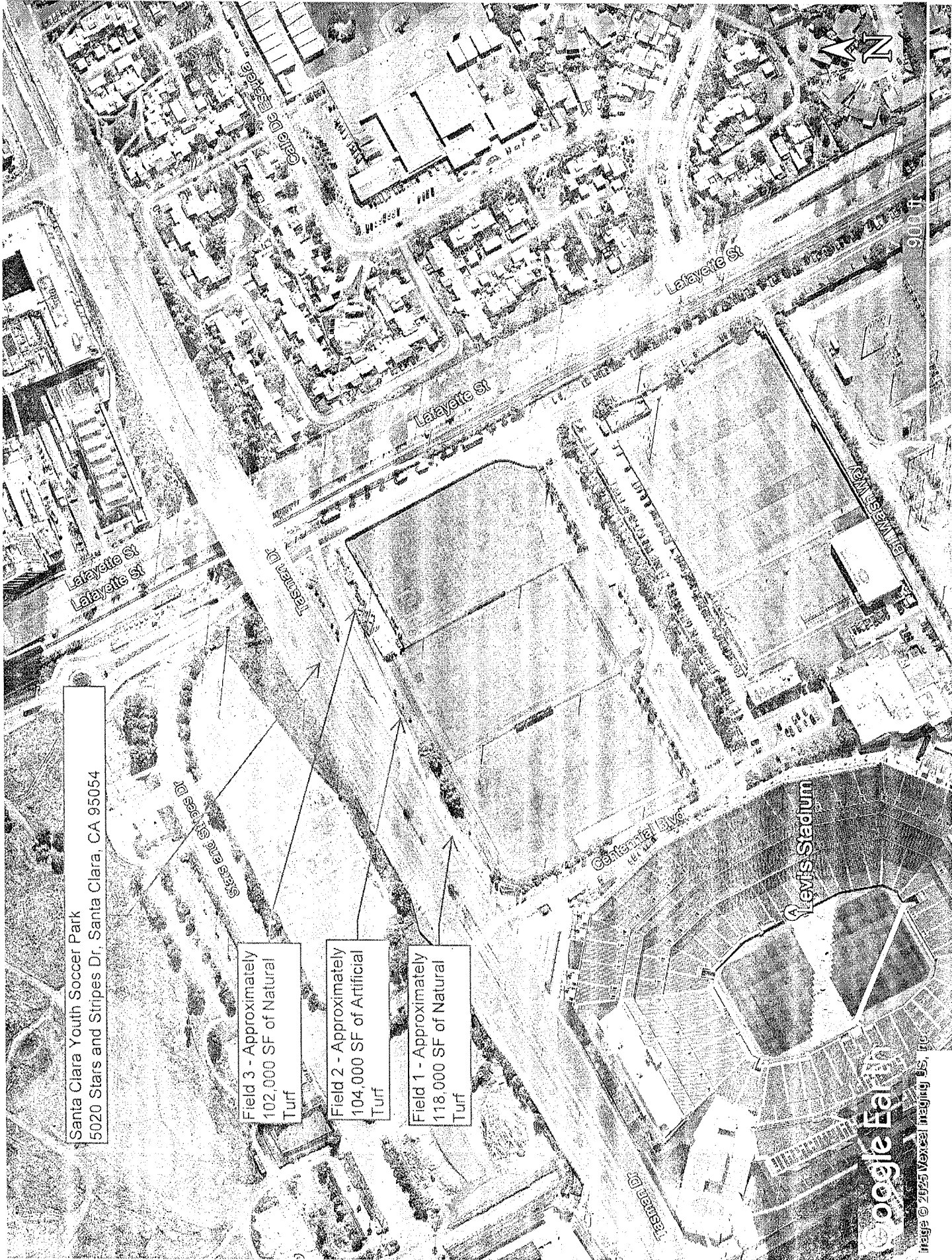
The Contractor shall prepare and submit a phasing plan identifying the sequence of Services and traffic control needed to complete the Services. The staging and phasing plan shall be subject to review and approval by the city, prior to the start of services.

## **12. OUTCOMES & DELIVERABLES**

Successful completion of the Services shall result in the following measurable outcomes:

- 12.1.** Complete restoration of the field profile such that the exposed root zone depth for Field 1 and Field 3 is increased from approximately 1.5 inches of exposed sand profile to approximately six inches, subject to existing field conditions.
- 12.2.** Removal of thatch and organic accumulation sufficient to return the finished field grade to the original fibrous sand root zone.
- 12.3.** A uniform, stable, and properly graded playing surface prepared to receive subsequent turf replacement work.
- 12.4.** Improved field performance characteristics, including substantially improved drainage rates, more consistent surface grading, and reduced organic accumulation that contributes to field compaction and maintenance challenges.
- 12.5.** Contractor shall notify P&R upon completion of Services and participate in a joint field inspection with City representative to confirm completion of Services and readiness to complete subsequent Field Improvement Work.
- 12.6.** Any areas not meeting specified outcomes shall be reworked by Contractor at no additional cost to the City prior to final acceptance.

EXHIBIT A-1 - FIELD IMAGES



Santa Clara Youth Soccer Park  
5020 Stars and Stripes Dr, Santa Clara, CA 95054

Field 3 - Approximately  
102,000 SF of Natural  
Turf

Field 2 - Approximately  
104,000 SF of Artificial  
Turf

Field 1 - Approximately  
118,000 SF of Natural  
Turf

**EXHIBIT B  
FEE SCHEDULE**

**1. FEES**

The City shall compensate Contractor for the successful performance of Services according to the rates below.

<b>Item</b>	<b>Size</b>	<b>Cost Per Sq Ft</b>	<b>Total</b>
Field #1	114,000	\$2.588	\$295,032.00
Field #3	104,000	\$2.588	\$269,152.00
<b>Total Not-To-Exceed Cost</b>			<b>\$584,184.00</b>

**2. PAYMENT**

**2.1.** Payment for the Services under this Agreement shall be made on a milestone basis as further described below and subject to review, inspection, and written acceptance by the City.

**2.2.** The City's review, inspection, and acceptance of completed Services shall include the following, as applicable to each payment milestone:

**2.2.1.** Completion of a site visit with Contractor and City to inspect completed work and test systems.

**2.2.2.** Contractor's submission and the City's review and approval of all project record documents

**2.2.3.** Contractor's completion of all punch list work to the satisfaction of the City.

**2.2.4.** Contractor's completion of all necessary instructional training sessions to City staff.

**2.2.5.** The City shall not unreasonably withhold acceptance or delay scheduling a site visit for the purpose of inspecting completed work and testing systems. City and Contractor will work in good faith to timely schedule the site visit to inspect completed work and test systems.

### 2.3. PAYMENT MILESTONES

Milestone	Amount Due
Completion and acceptance of Services for Field #1	40% of Total Contract Amount
Completion and acceptance of Services for Field #3	40% of Total Contract Amount
Final acceptance and project close-out, including completion of Field Improvement Work, all clean-up and removal of all equipment and materials	20% of Total Contract Amount

2.4. The City shall have no obligation to make payment for the Services until such completion and acceptance has occurred, regardless of the date on which the Services described herein were performed.

2.5. Contractor expressly waives any claim for early payment, interest, penalties, delay damages, or additional compensation arising from the City's withholding of payment pursuant to this provision.

### 3. CHANGE ORDERS

3.1. Any changes to the scope of Services must be authorized in advance by a written change order approved by the City. Contractor shall submit a detailed written proposal, including scope, schedule impacts, and cost, for the City's review and approval prior to commencing any changed work.

3.2. Compensation for approved change orders shall be based on Contractor's submitted quote and may be subject to negotiation and agreement by the City. Any increase in total compensation under this Agreement shall require a formal written amendment executed by both parties.

3.3. Delays caused by either the Contractor or the City shall not constitute grounds for a change order or additional compensation. Change orders shall be limited to unforeseen conditions that could not have been reasonably identified during the existing conditions assessment.

### 4. INVOICING

4.1. Upon completion of each milestone identified in Section 2 above, Contractor shall submit an invoice to the City in a format approved by the City and subject to verification by the City.

4.2. City shall pay Contractor within thirty (30) days of receipt of an approved invoice.

## EXHIBIT C INSURANCE REQUIREMENTS

Without limiting the Contractor's indemnification of the City, and prior to commencing any of the Services required under this Agreement, the Contractor shall provide and maintain in full force and effect, at its sole cost and expense, the following insurance policies with at least the indicated coverages, provisions and endorsements:

### A. COMMERCIAL GENERAL LIABILITY INSURANCE

1. Commercial General Liability Insurance policy which provides coverage at least as broad as Insurance Services Office form CG 00 01. Policy limits are subject to review, but shall in no event be less than, the following:
  - \$3,000,000 Each occurrence
  - \$3,000,000 General Aggregate
  - \$3,000,000 Products/Completed Operations Aggregate
  - \$3,000,000 Personal Injury
  - \$3,000,000 Project Aggregate
2. Exact structure and layering of the coverage shall be left to the discretion of Contractor; however, any excess or umbrella policies used to meet the required limits shall be at least as broad as the underlying coverage and shall otherwise follow form.
3. The following provisions shall apply to the Commercial Liability policy as well as any umbrella policy maintained by the Contractor to comply with the insurance requirements of this Agreement:
  - a. Coverage shall be on a "pay on behalf" basis with defense costs payable in addition to policy limits;
  - b. There shall be no cross liability exclusion which precludes coverage for claims or suits by one insured against another; and
  - c. Coverage shall apply separately to each insured against whom a claim is made or a suit is brought, except with respect to the limits of liability.

### B. BUSINESS AUTOMOBILE LIABILITY INSURANCE

Business automobile liability insurance policy which provides coverage at least as broad as ISO form CA 00 01 with policy limits a minimum limit of not less than five million dollars (\$2,000,000) each accident using, or providing coverage at least as broad as, Insurance Services Office form CA 00 01. Liability coverage shall apply to all owned, non-owned and hired autos.

In the event that the Work being performed under this Agreement involves transporting of hazardous or regulated substances, hazardous or regulated wastes and/or hazardous or regulated materials, Contractor and/or its subcontractors involved in such activities shall provide coverage with a limit of two million dollars (\$2,000,000) per accident covering transportation of such materials by the addition to the Business Auto Coverage Policy of Environmental Impairment Endorsement MCS90 or Insurance Services Office endorsement form CA 99 48, which amends the pollution exclusion in the standard Business Automobile Policy to cover pollutants that are in or upon, being transported or towed by, being loaded onto, or being unloaded from a covered auto.

C. WORKERS' COMPENSATION

1. Workers' Compensation Insurance Policy as required by statute and employer's liability with limits of at least one million dollars (\$1,000,000) policy limit Bodily Injury by disease, one million dollars (\$1,000,000) each accident/Bodily Injury and one million dollars (\$1,000,000) each employee Bodily Injury by disease.
2. The indemnification and hold harmless obligations of Contractor included in this Agreement shall not be limited in any way by any limitation on the amount or type of damage, compensation or benefit payable by or for Contractor or any subcontractor under any Workers' Compensation Act(s), Disability Benefits Act(s) or other employee benefits act(s).
3. This policy must include a Waiver of Subrogation in favor of the City of Santa Clara, its City Council, commissions, officers, employees, volunteers and agents.

D. POLLUTION LIABILITY

Contractor and/or its subcontractors shall provide a Contractor's Pollution Liability Insurance policy with coverage limits not less than two million dollars (\$2,000,000) each claim in connection with the Work performed under this Contract. All activities contemplated in this agreement shall be specifically scheduled on the policy as "covered operations." Any deductible must be declared to and approved by City. Such policy shall cover, at a minimum, liability for bodily injury, damage to and loss of use of property, and clean-up costs arising from sudden, accidental and gradual pollution and remediation in connection with the Work under this Agreement. Contractor shall use its best efforts to have the City, Council, officers, employees and volunteers added as additional insureds under this policy. The following provisions shall apply:

1. The policy shall provide coverage for the hauling of waste from the project site to the final disposal location, including non-owned disposal sites.
2. Products/completed operations coverage shall extend a minimum of three (3) years after project completion.

3. Coverage shall be included on behalf of the insured for covered claims arising out of the actions of independent contractors.
4. If the insured is using subcontractors the Policy must include work performed "by or on behalf" of the insured.
5. Policy shall contain no language that would invalidate or remove the insurer's duty to defend or indemnify for claims or suits expressly excluded from coverage. Policy shall specifically provide for a duty to defend on the part of the insurer.

E. COMPLIANCE WITH REQUIREMENTS

All of the following clauses and/or endorsements, or similar provisions, must be part of each commercial general liability policy, and each umbrella or excess policy.

1. Additional Insureds. City of Santa Clara, its City Council, commissions, officers, employees, volunteers and agents are hereby added as additional insureds in respect to liability arising out of Contractor's work for City, using Insurance Services Office (ISO) Endorsement CG 20 10 11 85 or the combination of CG 20 10 03 97 and CG 20 37 10 01, or its equivalent.
2. Primary and non-contributing. Each insurance policy provided by Contractor shall contain language or be endorsed to contain wording making it primary insurance as respects to, and not requiring contribution from, any other insurance which the indemnities may possess, including any self-insurance or self-insured retention they may have. Any other insurance indemnities may possess shall be considered excess insurance only and shall not be called upon to contribute with Contractor's insurance.
3. General Aggregate. The general aggregate limits shall apply separately to Contractor's work under this Agreement providing coverage at least as broad as Insurance Services Office (ISO) Endorsement CG 2503, 1985 Edition, or insurer's equivalent (CGL);
4. Cancellation.
  - a. Each insurance policy shall contain language or be endorsed to reflect that no cancellation or modification of the coverage provided due to non-payment of premiums shall be effective until written notice has been given to City at least ten (10) days prior to the effective date of such modification or cancellation. In the event of

non-renewal, written notice shall be given at least ten (10) days prior to the effective date of non-renewal.

b. Each insurance policy shall contain language or be endorsed to reflect that no cancellation or modification of the coverage provided for any cause save and except non-payment of premiums shall be effective until written notice has been given to City at least thirty (30) days prior to the effective date of such modification or cancellation. In the event of non-renewal, written notice shall be given at least thirty (30) days prior to the effective date of non-renewal.

5. Other Endorsements. Other endorsements may be required for policies other than the commercial general liability policy if specified in the description of required insurance set forth in Sections A through E of this Document 00820.

#### F. ADDITIONAL INSURANCE RELATED PROVISIONS

Contractor and City agree as follows:

1. Requirements of specific insurance coverage features described in this Agreement shall not be construed to be a limitation of liability on the part of Contractor or any of its subcontractors, nor to relieve any of them of any liability or responsibility under the Contract Documents, as a matter of law or otherwise. Such requirements are not intended by any Party to be limited to providing coverage for the vicarious liability of the City or to the supervisory role, if any, of City. All insurance coverage provided pursuant to this Agreement in any way relating to City is intended to apply to the full extent of the policies involved.
2. Contractor shall maintain all required insurance policies in full force and effect during entire period of performance of the Services under this Agreement of Contract Documents. Contractor shall also keep such insurance in force during warranty and guarantee periods. At time of making application for extension of time, Contractor shall submit evidence that insurance policies shall be in effect during requested additional period of time.
3. City reserves the right, at any time during the term of this Agreement to change the amounts and types of insurance required by giving the Contractor thirty (30) days advance written notice of such change. If such change results in substantial additional cost to the Contractor, the City shall negotiate in good faith additional compensation proportional to the increased benefit to City.
4. Any type of insurance or any increase of limits of liability not described in this Exhibit which Contractor requires for its own protection or in

compliance with applicable statutes or regulations, shall be Contractors' responsibility and at its own expense.

5. No liability insurance coverage provided by Contractor to comply with the terms of this Agreement shall prohibit Contractor, or Contractor's employees, or agents, from waiving the right of subrogation prior to a loss. Contractor waives its right of subrogation against Indemnitees. Any property insurance policies affected by Contractor shall be endorsed to delete the subrogation condition as to indemnitees or shall specifically allow Contractor to waive subrogation prior to a loss. Contractor hereby waives any right of recovery against the indemnitees and agrees to require any subcontractor to do so.
6. Contractor agrees to ensure that subcontractors, and any other party involved with the Services who is brought onto or involved in the performance of the Services by Contractor, provide the same minimum insurance coverage required of Contractor, except as with respect to limits. Contractor agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this Agreement. Contractor agrees that upon request by City, all agreements with, and insurance compliance documents provided by, such subcontractors and others engaged in the project shall be submitted to City for review.
7. Contractor shall cooperate fully with City and Contractor's insurance companies in any safety and accident prevention program and claims handling procedures as established for the performance of Services under this Agreement.
8. All coverage types and limits required under this Agreement are subject to approval, modification and additional requirements by the City, as the need arises. Contractor shall not make any reductions in scope of coverage which may affect City's protection without City's prior written consent.
9. For purposes of applying insurance coverage only, all contracts pertaining to the performance of services shall be deemed to be executed when finalized and any activity commences in furtherance of performance under this agreement.
10. Contractor acknowledges and agrees that any actual or alleged failure on the part of City to inform Contractor of non-compliance with any of the insurance requirements set forth in this Agreement in no way imposes any additional obligations on City nor does it waive any of the City's rights under this Agreement or any other regard.

11. Any provision in this Agreement dealing with the insurance coverage provided pursuant to these requirements, is subordinate to and superseded by the requirements contained herein. These insurance requirements are intended to be separate and distinct from any other provision in this Agreement and are intended by the Parties here to be interpreted as such.
12. Contractor agrees to be responsible for ensuring that no contract used by any party involved in any way with the project reserves the right to charge City or Contractor for the cost of additional insurance coverage required by this Agreement. Any such provisions are to be deleted with reference to City. It is not the intent of City to reimburse any third party for the cost of complying with these requirements. There shall be no recourse against City for payment of premiums or other amounts with respect thereto.
13. Contractor agrees to obtain and provide to City evidence of Professional Liability insurance for Architects or Engineers if engaged by Contractor to perform any of the Services required under this Agreement. City shall determine the minimum coverage and policy limits required, after consultation with Contractor.
14. The City acknowledges that some insurance requirements contained in this Agreement may be fulfilled by self-insurance on the part of the Contractor. The Contractor's insurance obligations under this Agreement under may be satisfied in whole or in part by adequately funded self-insurance retention, but only after approval from the City Attorney's Office upon satisfactory evidence of financial capacity.
15. The City reserves the right to withhold payments from the Contractor in the event of material noncompliance with the insurance requirements set forth in this Agreement.

G. EVIDENCE OF COVERAGE

Prior to commencement of any Services under this Agreement, Contractor, and each and every subcontractor (of every tier) shall, at its sole cost and expense, provide and maintain not less than the minimum insurance coverage with the endorsements and deductibles indicated in this Agreement. Such insurance coverage shall be maintained with insurers, and under forms of policies, satisfactory to City and as described in this Agreement. Contractor shall file with the City all certificates and endorsements for the required insurance policies for City's approval as to adequacy of the insurance protection.

H. EVIDENCE OF COMPLIANCE

Contractor or its insurance broker shall provide the required proof of insurance compliance, consisting of Insurance Services Office (ISO) endorsement forms or their equivalent and the ACORD form 25-S certificate of insurance (or its

equivalent), evidencing all required coverage shall be delivered to City, or its representative as set forth below, at or prior to execution of this Agreement. Upon City's request, Contractor shall submit to City copies of the actual insurance policies or renewals or replacements. Unless otherwise required by the terms of this Agreement, all certificates, endorsements, coverage verifications and other items required to be delivered to City pursuant to this Agreement shall be mailed to:

EBIX Inc.

City of Santa Clara [\*insert City department name here]

P.O. Box 100085 – S2

or

1 Ebix Way

Duluth, GA 30096

John's Creek, GA 30097

Telephone number: 951-766-2280

Fax number: 770-325-0409

Email address: [ctsantaclara@ebix.com](mailto:ctsantaclara@ebix.com)

#### I. QUALIFYING INSURERS

All of the insurance companies providing insurance for Contractor shall have, and provide written proof of, an A. M. Best rating of at least A minus 6 (A- VI) or shall be an insurance company of equal financial stability that is approved by the City or its insurance compliance representatives.

## EXHIBIT D LABOR COMPLIANCE ADDENDUM

This Agreement is subject to the requirements of California Labor Code section 1720 *et seq.* requiring the payment of prevailing wages, the training of apprentices, and compliance with other applicable requirements.

### A. Prevailing Wage Requirements

1. Contractor shall be obligated to pay not less than the General Prevailing Wage Rate, which can be found at [www.dir.ca.gov](http://www.dir.ca.gov) and are on file with the City Clerk's office, which shall be available to any interested party upon request. Contractor is also required to have a copy of the applicable wage determination posted and/or available at each job site.
2. Specifically, contractors are reminded of the need for compliance with Labor Code Section 1774-1775 (the payment of prevailing wages and documentation of such), Section 1776 (the keeping and submission of accurate certified payrolls) and 1777.5 in the employment of apprentices on public works projects. Further, overtime must be paid for work in excess of 8 hours per day or 40 hours per week pursuant to Labor Code Section 1811-1813.
3. Special prevailing wage rates generally apply to work performed on weekends, holidays and for certain shift work. Depending on the location of the project and the amount of travel incurred by workers on the project, certain travel and subsistence payments may also be required. Contractors and subcontractors are on notice that information about such special rates, holidays, premium pay, shift work and travel and subsistence requirements can be found at [www.dir.ca.gov](http://www.dir.ca.gov).
4. Only bona fide apprentices actively enrolled in a California Division of Apprenticeship Standards approved program may be employed on the project as an apprentice and receive the applicable apprenticeship prevailing wage rates. Apprentices who are not properly supervised and employed in the appropriate ratio shall be paid the full journeyman wages for the classification of work performed.
5. As a condition to receiving progress payments, final payment and payment of retention on any and all projects on which the payment of prevailing wages is required, Contractor agrees to present to City, along with its request for payment, all applicable and necessary certified payrolls (for itself and all applicable subcontractors) for the time period covering such payment request. The term "certified payroll" shall include all required documentation to comply with the mandates set forth in Labor Code Section 1720 *et seq.*, as well as any additional documentation requested by the City or its designee including, but not limited to: certified payroll, fringe benefit statements and backup documentation such as monthly benefit statements, employee timecards, copies of wage statements and cancelled checks, proof of training contributions (CAC2 if applicable), and apprenticeship forms such as DAS-140 and DAS-142.
6. In addition to submitting the certified payrolls and related documentation to City, Contractor and all subcontractors shall be required to submit certified payroll and

related documents electronically to the California Department of Industrial Relations. Failure to submit payrolls to the DIR when mandated by the project parameters shall also result in the withholding of progress, retention and/or final payment.

7. No contractor or subcontractor may be listed on a bid proposal for a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5 [with limited exceptions from this requirement for bid purposes only under Labor Code section 1771.1(a)].
8. No contractor or subcontractor may be awarded a contract for public work on a public works project, unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5. Contractors MUST be a registered "public works contractor" with the DIR AT THE TIME OF BID. Where the prime contract is less than \$15,000 for maintenance work or less than \$25,000 for construction alternation, demolition or repair work, registration is not required.
9. All contractors/subcontractors and related construction services subject to prevailing wage, including but not limited to: trucking, surveying and inspection work must be registered with the Department of Industrial Relations as a "public works contractor". Those you fail to register and maintain their status as a public works contractor shall not be permitted to perform work on the project.
10. Should any contractor or subcontractors not be a registered public works contractor and perform work on the project, Contractor agrees to fully indemnify the City for any fines assessed by the California Department of Industrial Relations against the City for such violation, including all staff costs and attorney's fee relating to such fine.
11. This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

#### B. Audit Rights

All records or documents required to be kept pursuant to this Agreement to verify compliance with this Addendum shall be made available for audit at no cost to City, at any time during regular business hours, upon written request by the City Attorney, City Auditor, City Manager, or a designated representative of any of these officers. Copies of such records or documents shall be provided to City for audit at City Hall when it is practical to do so. Otherwise, unless an alternative is mutually agreed upon, the records or documents shall be made available at Contractor's address indicated for receipt of notices in this Agreement.

#### C. Enforcement

1. City shall withhold any portion of a payment; including the entire payment amount, until certified payroll forms and related documentation are properly submitted, reviewed and found to be in full compliance. In the event that certified payroll forms do not comply with the requirements of Labor Code Section 1720 et seq., City may continue to hold sufficient funds to cover estimated wages and penalties under the Agreement.

2. Based on State funding sources, this project may be subject to special labor compliance requirements of Proposition 84.
3. The City is not obligated to make any payment due to Contractor until Contractor has performed all of its obligations under these provisions. This provision means that City can withhold all or part of a payment to Contractor until all required documentation is submitted. Any payment by the City despite Contractor's failure to fully perform its obligations under these provisions shall not be deemed to be a waiver of any other term or condition contained in this Agreement or a waiver of the right to withhold payment for any subsequent breach of this Addendum.

City or the California Department of Industrial Relations may impose penalties upon contractors and subcontractors for failure to comply with prevailing wage requirements. These penalties are up to \$200 per day per worker for each wage violation identified; \$100 per day per worker for failure to provide the required paperwork and documentation requested within a 10-day window; and \$25 per day per worker for any overtime violation.